

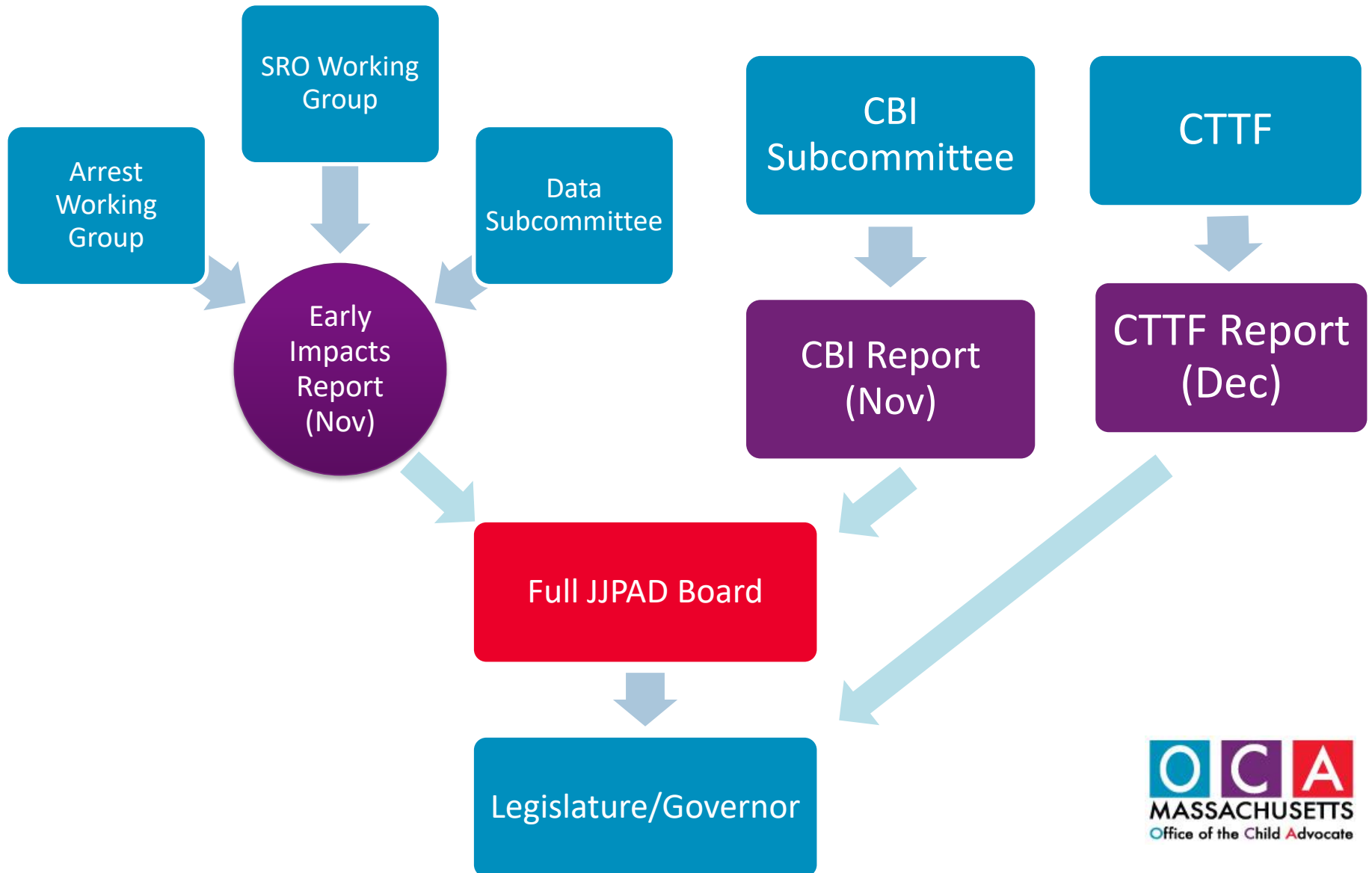
# Juvenile Justice Policy and Data Board

September 19th  
1pm – 3pm

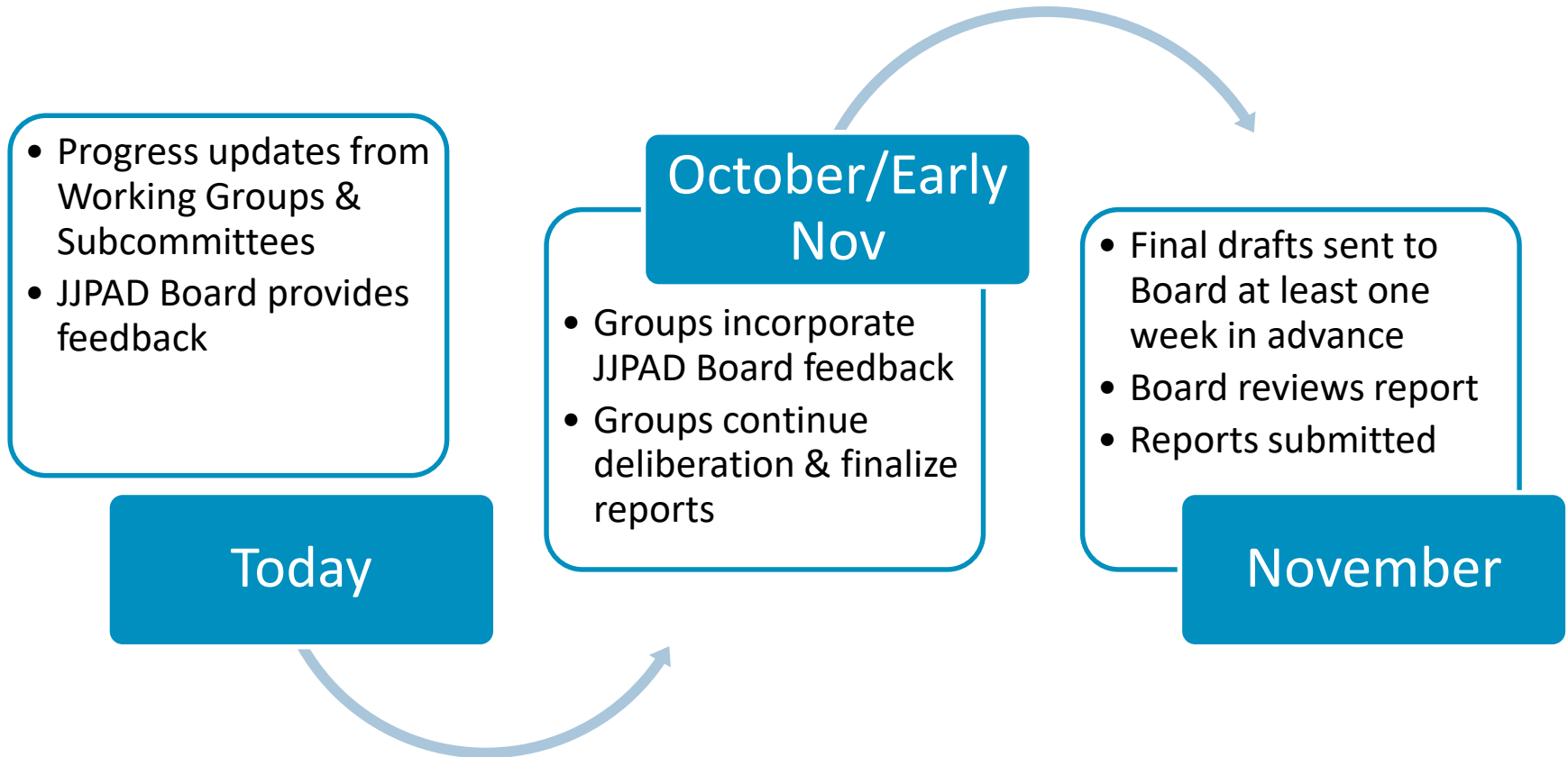
# Agenda

- Welcome and Introductions
- Approval of Minutes from June Meeting
- Fall Work Plan Overview
- Data Trends Presentation
- Working Group Report-Outs
  - Juvenile Arrest
  - School Resource Officers
- Subcommittee Report-Outs
  - Community-Based Interventions

# Fall Work Plan: Reports



# Fall Work Plan: Timeline for Nov Reports



**DATA TRENDS**

**INITIAL PRESENTATION**

# Data Trends Overview

Arrests (EOPSS)



Overnight Arrests (DYS)



Applications for Complaint (MassCourts)



Delinquency Filings (MassCourts)



Arraignments (MassCourts)



Detention (DYS)

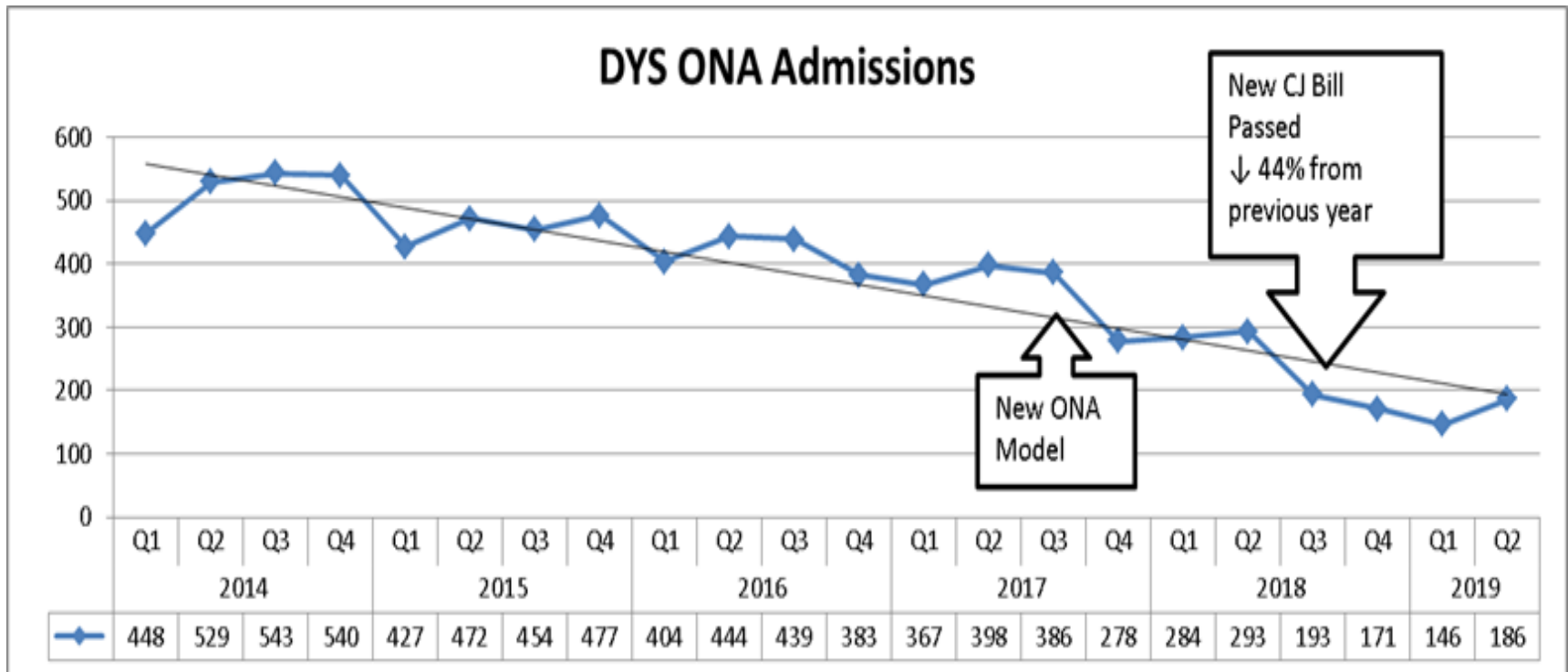


Probation Case Loads (Mass Courts)



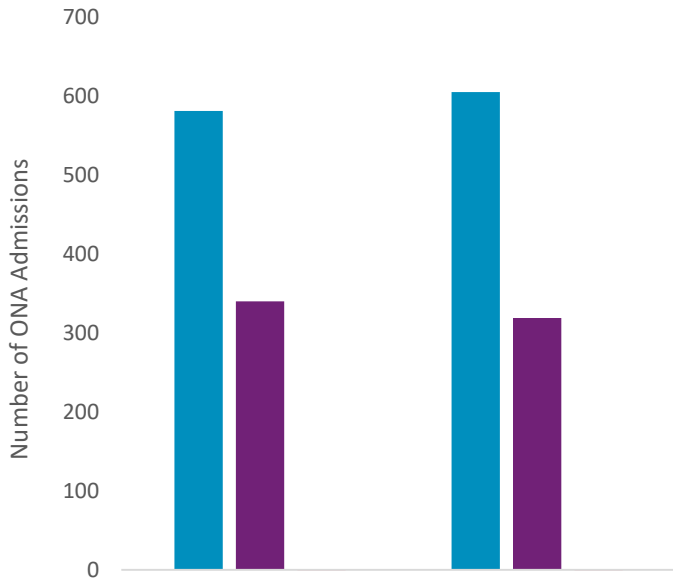
DYS Commitments (DYS)

# Overnight Arrest Admissions Down 44%



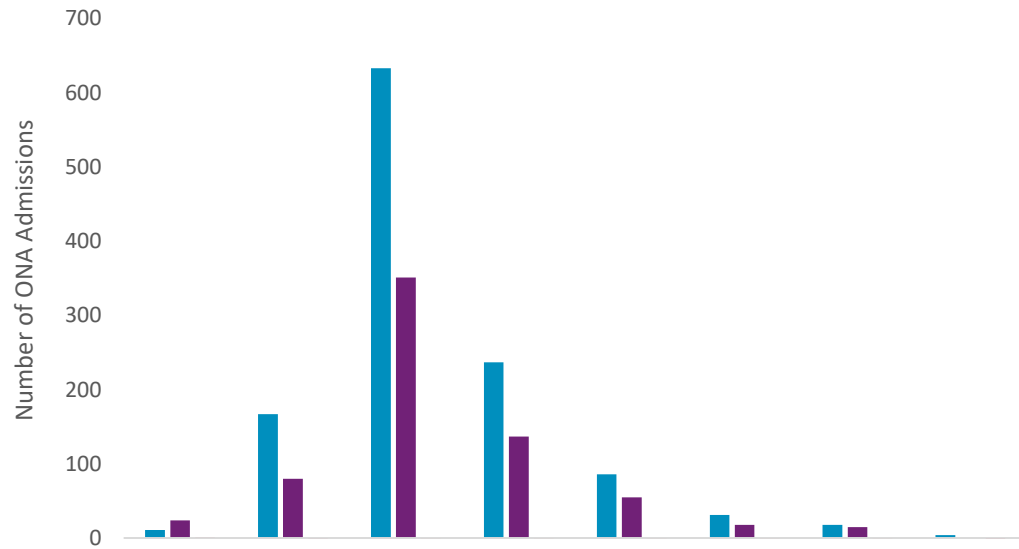
# % Drop in ONA Similar Across Offense Seriousness Levels

By Penalty Type



	Felony	Misdemeanor
FY2018	581	605
FY2019	340	319
Change	-41%	-47%

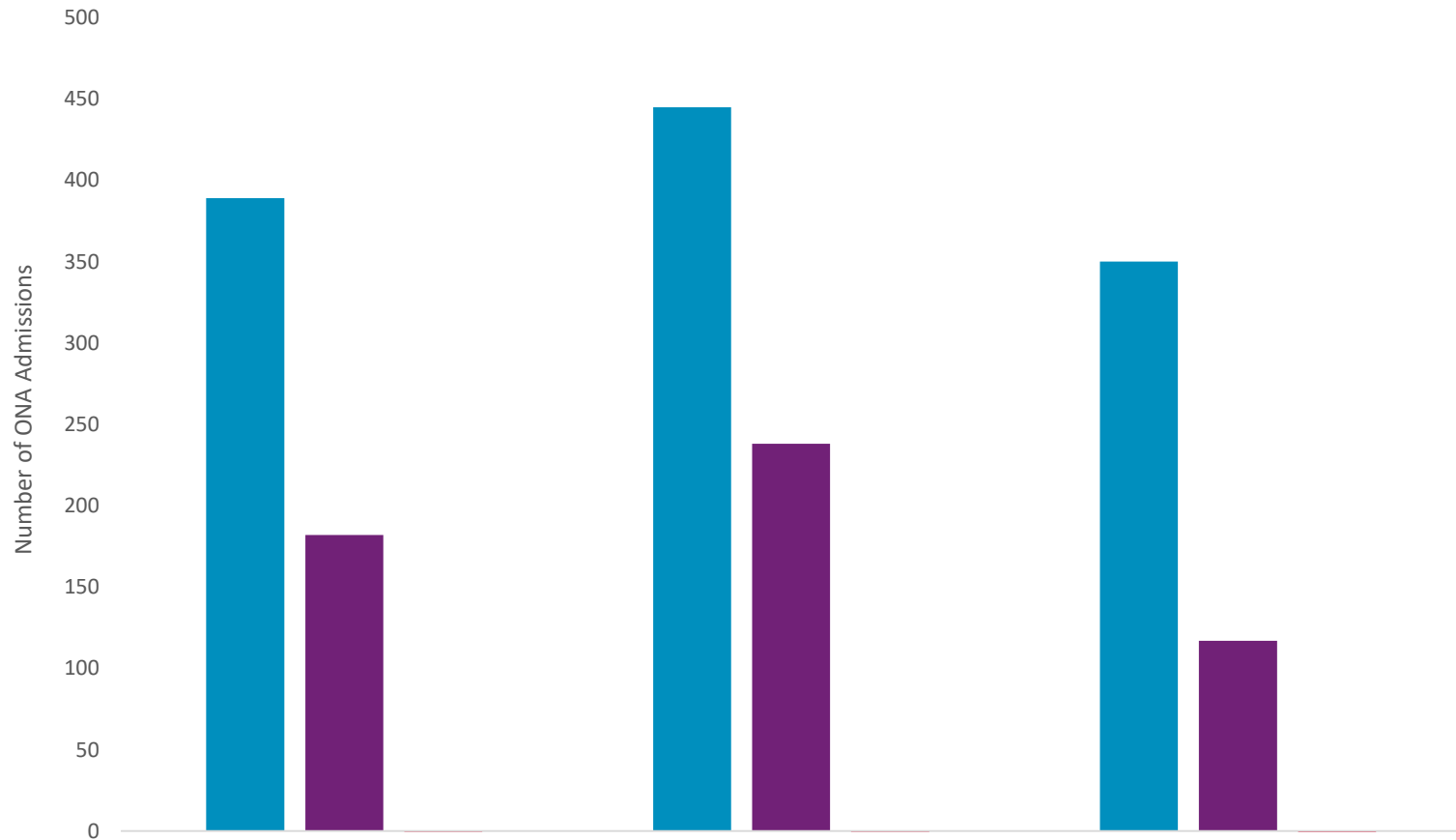
By DYS Grid Level  
(Higher Grid Level = More Serious Offense)



	Grid 0	Grid 1	Grid 2	Grid 3	Grid 4	Grid 5	Grid 6	Grid 7
FY2018	11	167	633	237	86	31	18	4
FY2019	24	80	351	137	55	18	15	0
Change	118.18%	-52%	-45%	-42%	-36%	-42%	-17%	-100%

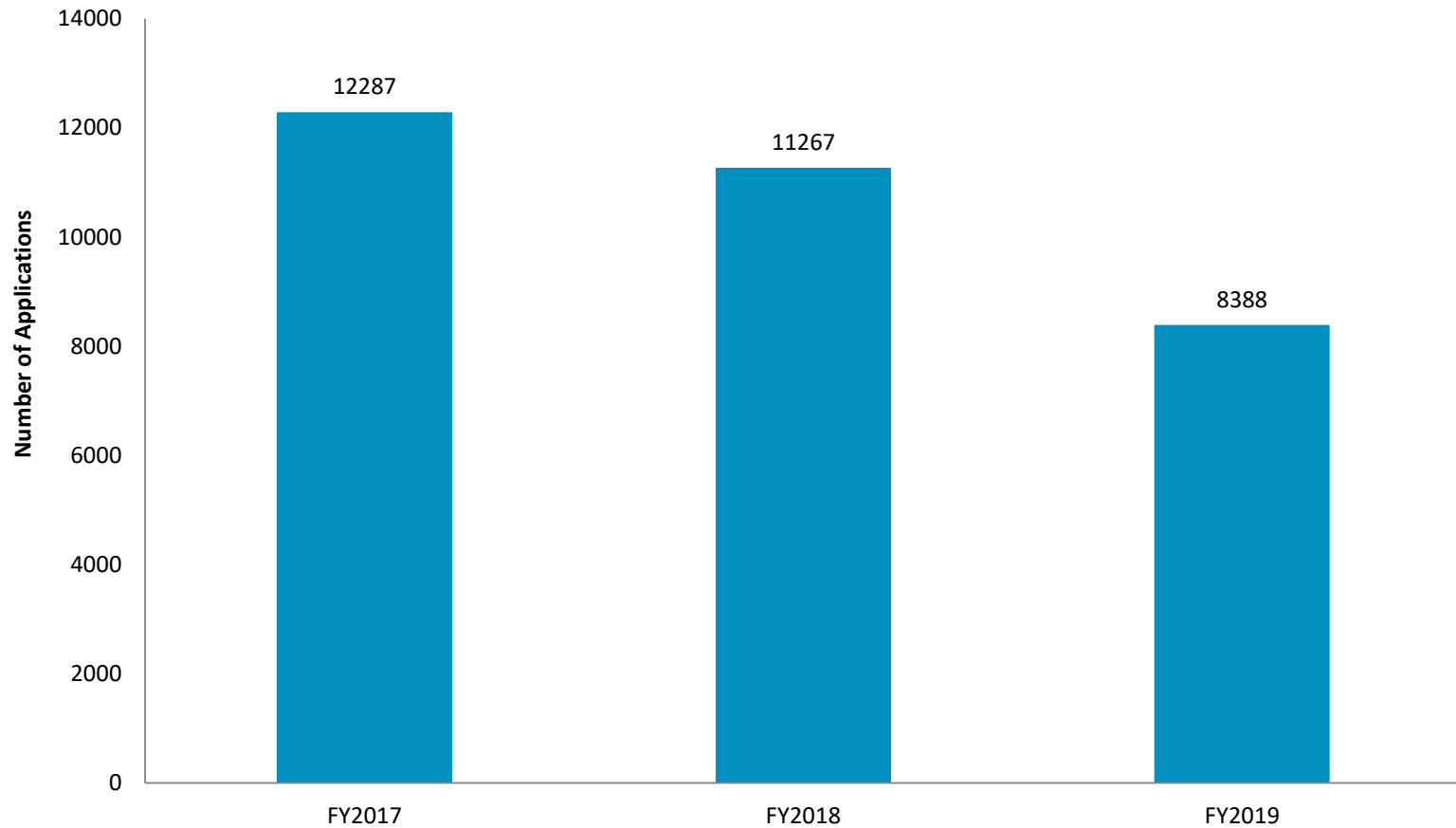


# ONA Admissions by Race/Ethnicity

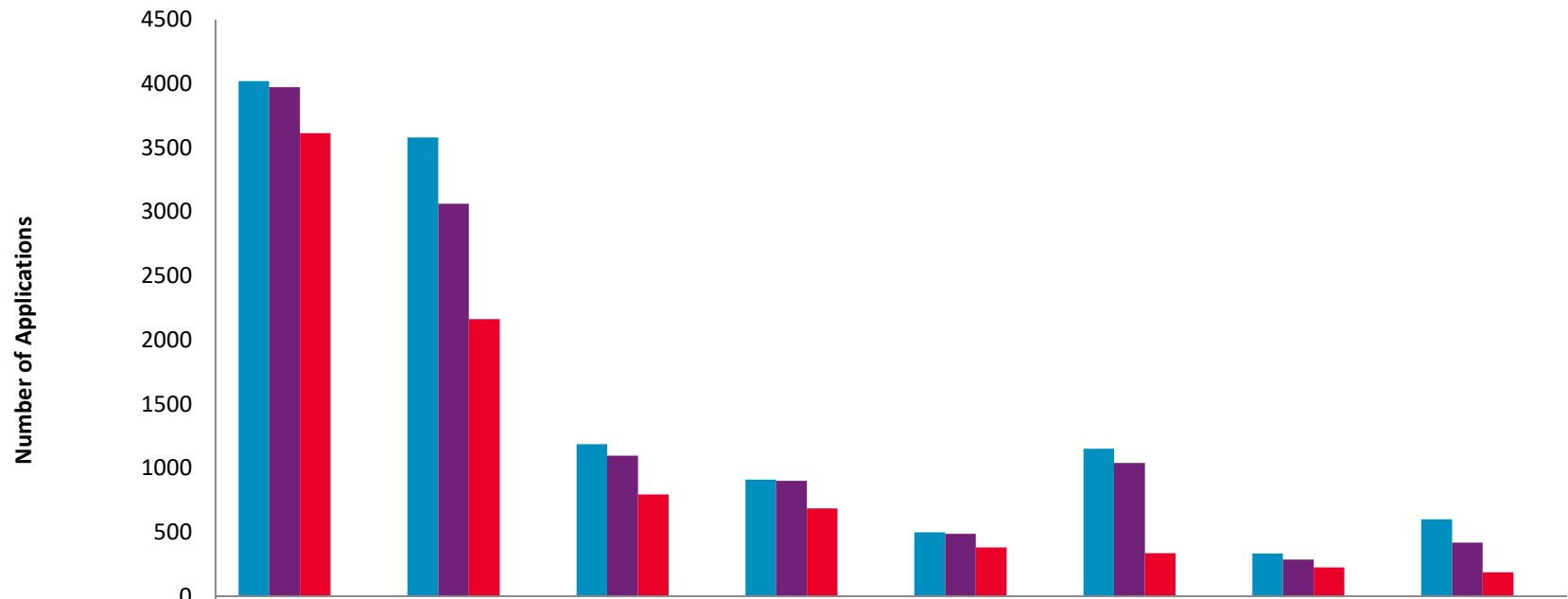


	Black or African American	Hispanic	White
■ FY2018	389	445	350
■ FY2019	182	238	117
■	-53%	-47%	-67%

# Applications for Complaint Down 25% from FY18 to FY19

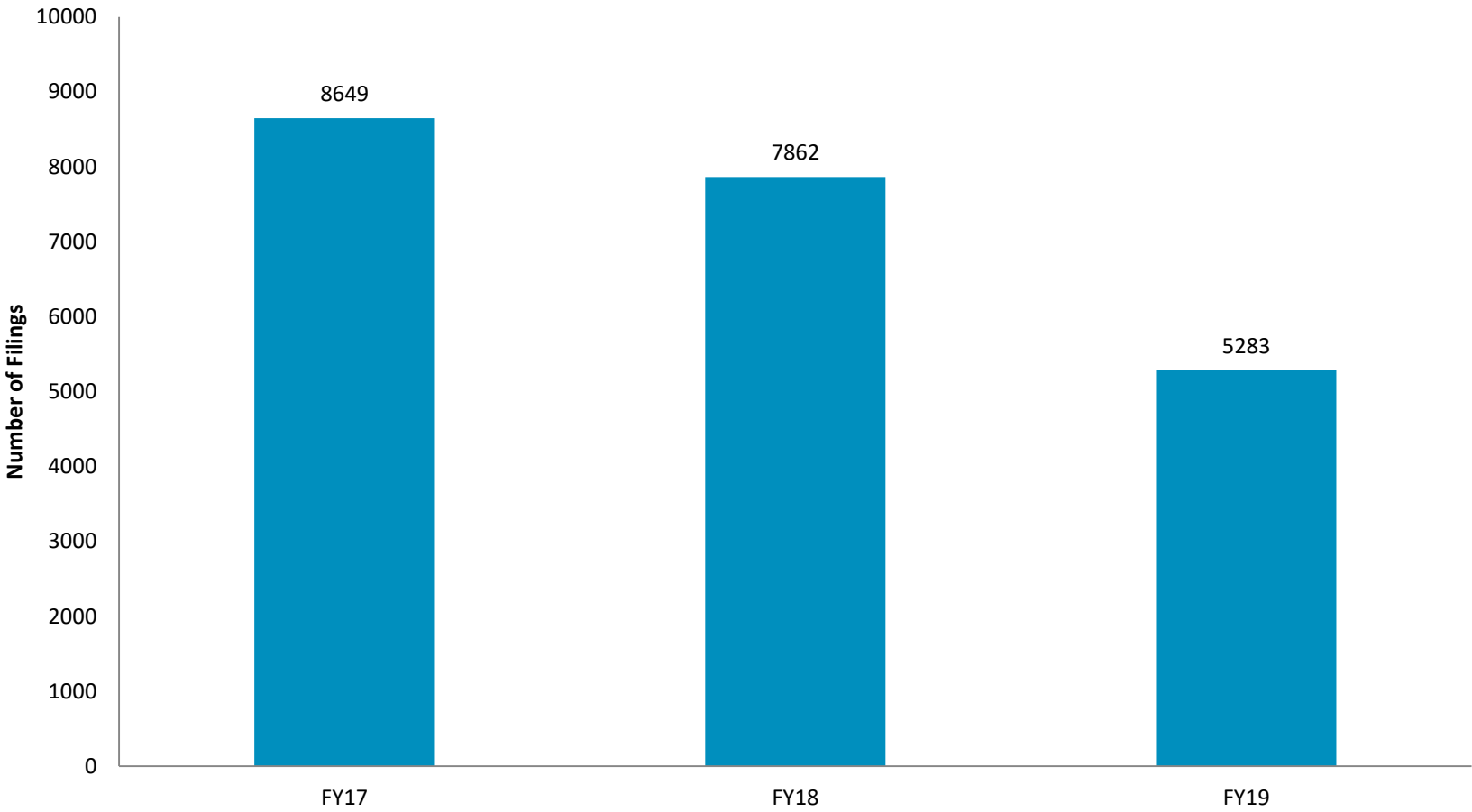


# Largest Drops in Applications for Complaint for School Disturbances, Alcohol & Property Offenses

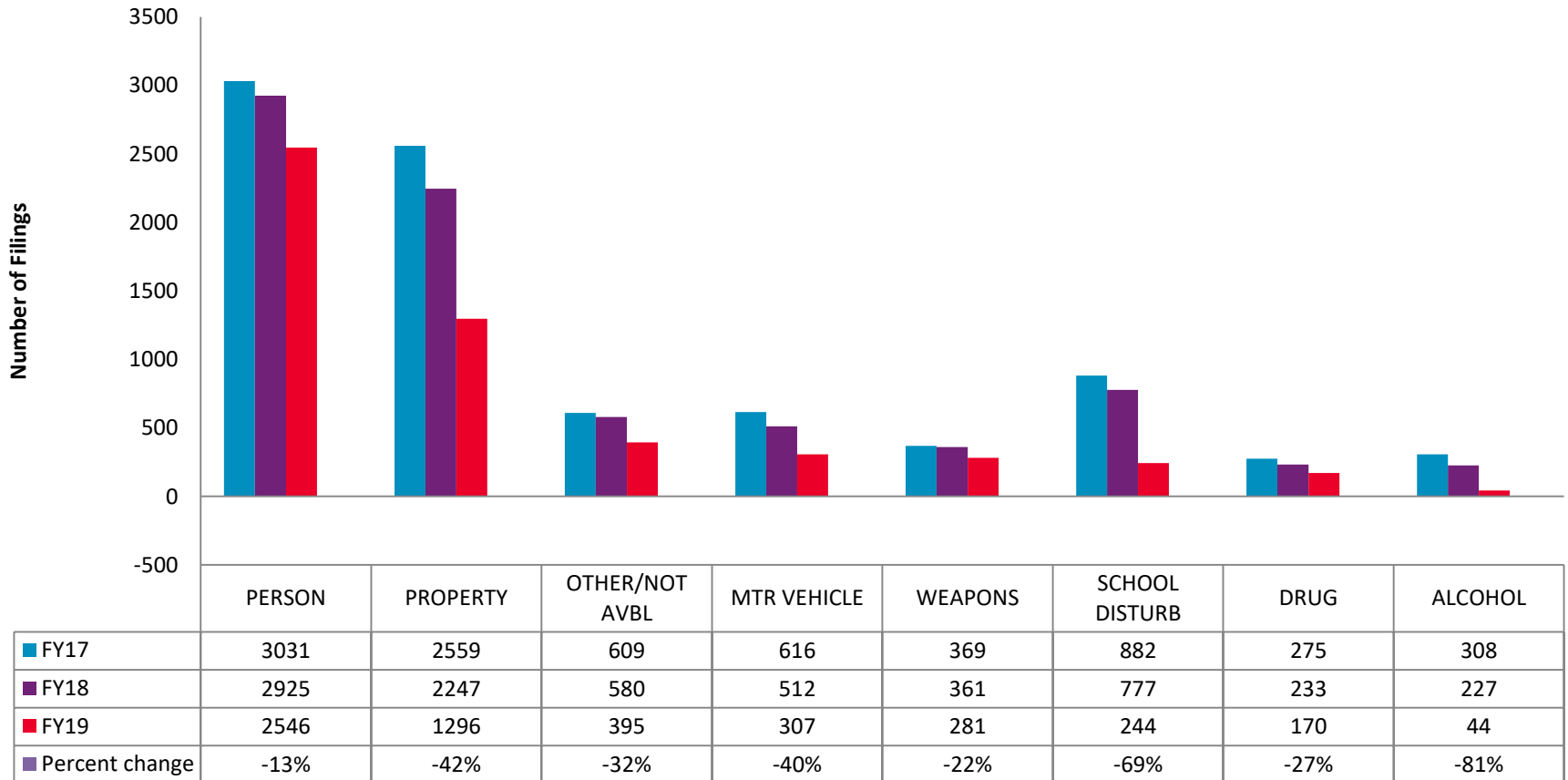


	PERSON	PROPERTY	MTR VEHICLE	OTHER/NOT AVBL	WEAPONS	SCHOOL DISTURB	DRUG	ALCOHOL
■ FY17	4020	3581	1188	911	500	1151	335	601
■ FY18	3972	3063	1097	900	488	1040	288	419
■ FY19	3612	2163	796	686	381	337	225	188
■ Percent Change	-9%	-29%	-27%	-24%	-22%	-68%	-22%	-55%

# Delinquency Filings Down 33% from FY18 to FY19

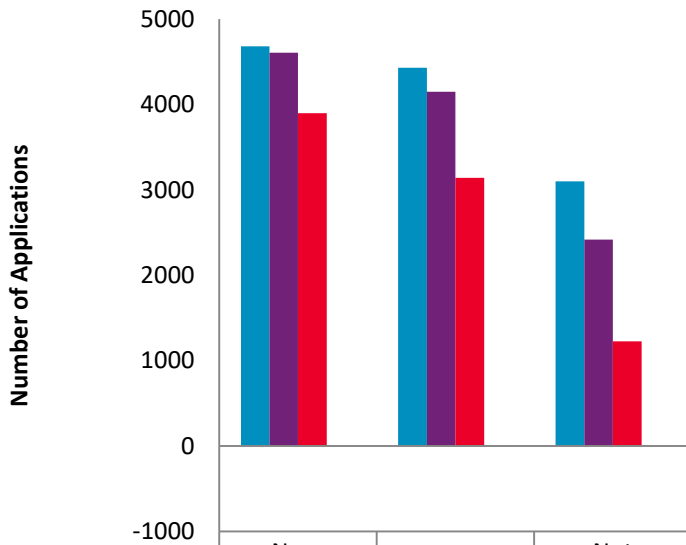


# Largest Drops in Delinquency Filings for Alcohol, School Disturbance, and Property Offenses



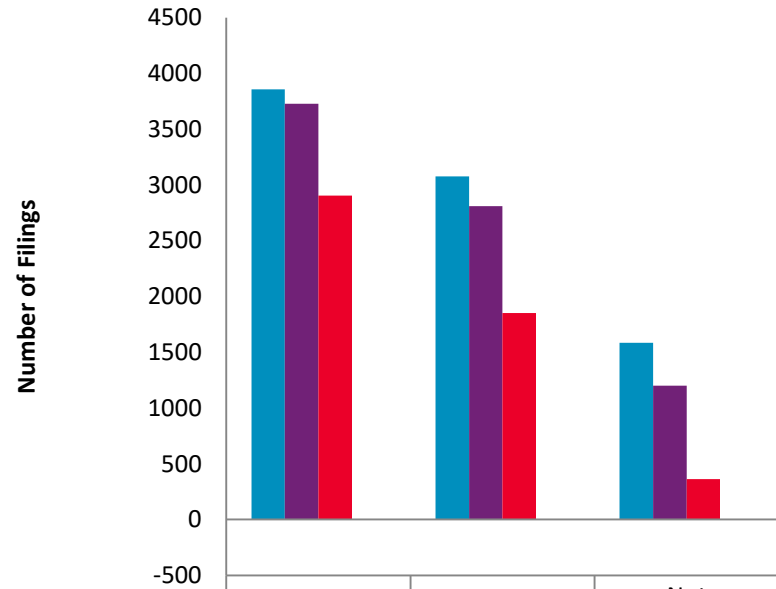
# Complaints & Filings by Race/Ethnicity

**Application for Complaint by Race/Ethnicity FY17-FY19**



	Non-white	White	Not reported
FY17	4684	4430	3099
FY18	4608	4149	2419
FY19	3897	3142	1225
Percent change	-17%	-29%	-60%

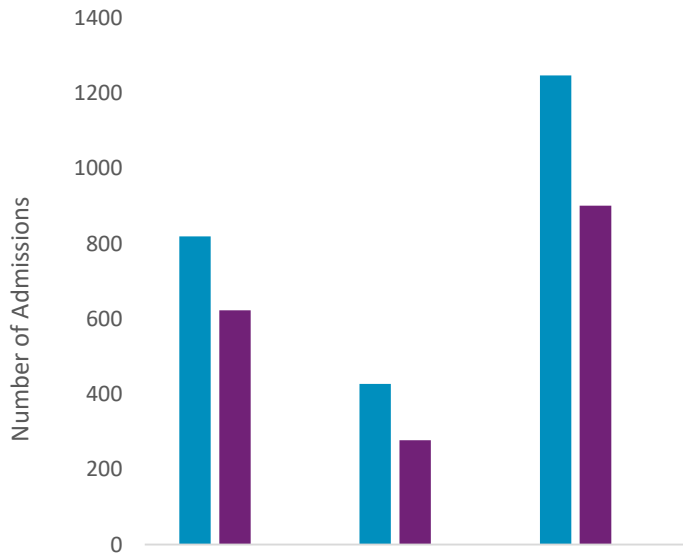
**Delinquency Filings by Race/Ethnicity FY17-FY19**



	Non-white	White	Not reported
FY17	3856	3078	1585
FY18	3727	2809	1201
FY19	2905	1852	362
Percent change	-25%	-40%	-77%

# Detention Admissions Down by 28% Total

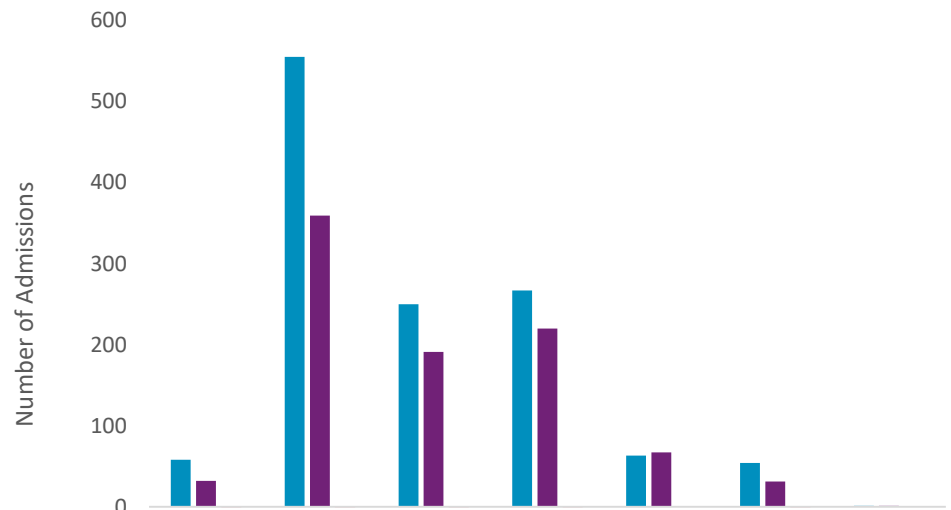
## Detention Admissions by Penalty Level



	Felony	Misdemeanor	Total
FY 2018	819	427	1247
FY 2019	623	277	901
% Change	-24%	-35%	-28%

FY 2018 FY 2019 % Change

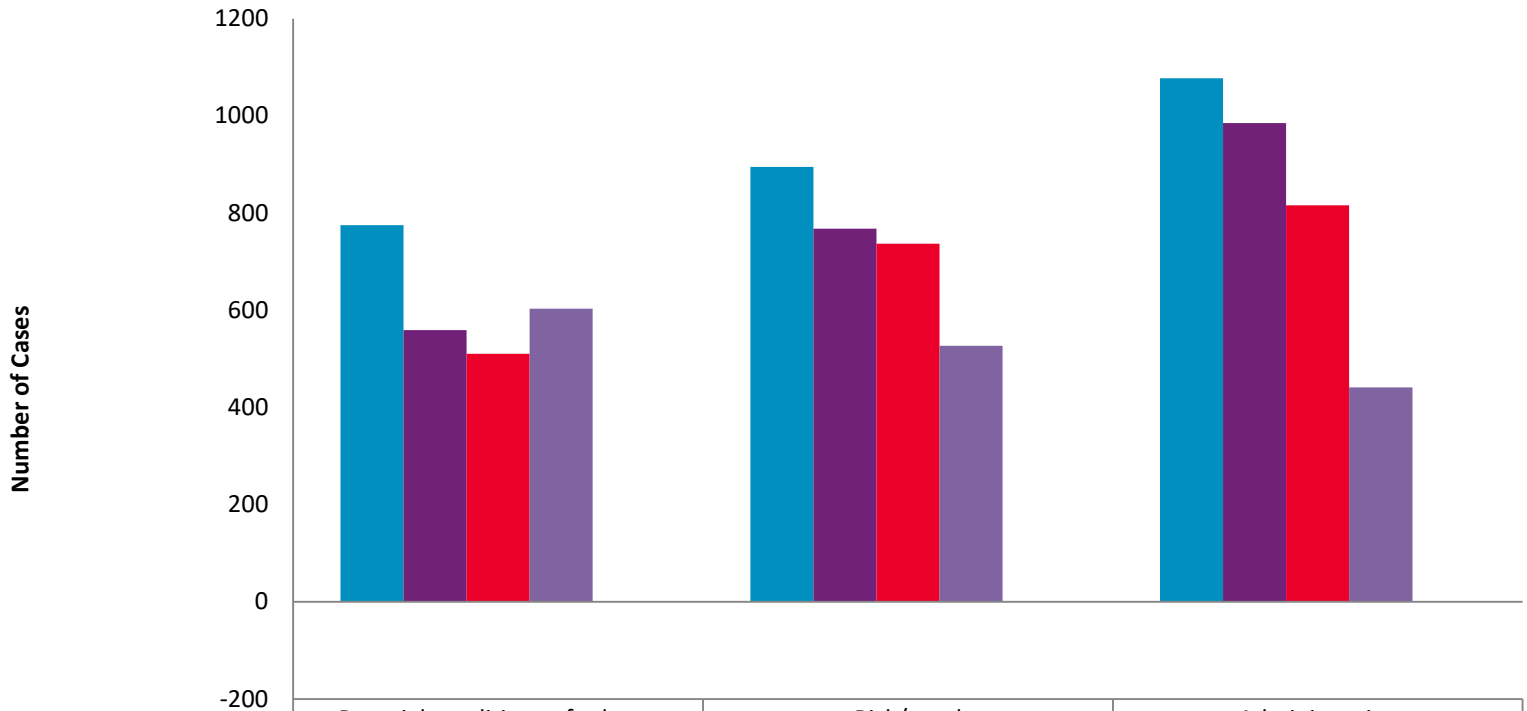
## Detention Admissions by Grid Type (Higher Grid = More Serious Offense)



	Grid 1	Grid 2	Grid 3	Grid 4	Grid 5	Grid 6	Grid 7
FY 2018	58	555	250	267	63	54	1
FY 2019	32	359	191	220	67	31	1
% Change	-45%	-35%	-24%	-18%	6%	-43%	0%

FY 2018 FY 2019 % Change

# Probation Delinquency-Related Caseload Down 24% from July 2018 to July 2019

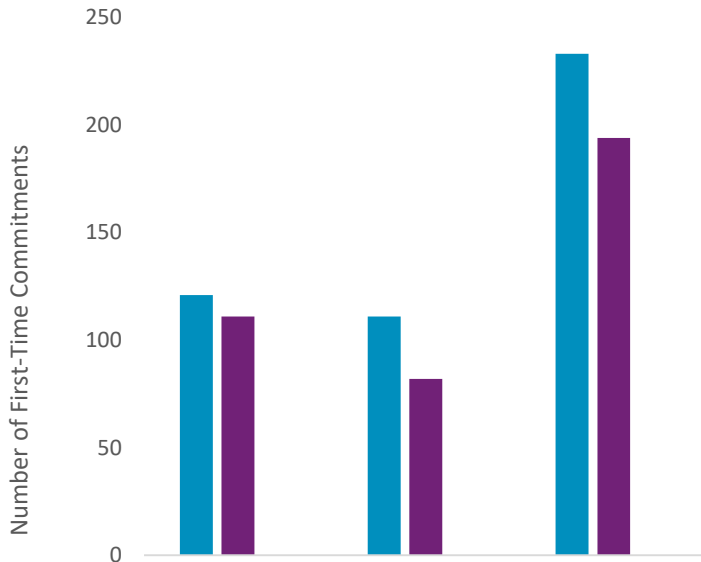


	Pre-trial conditions of release	Risk/need	Administrative
■ Jul-16	775	895	1077
■ Jul-17	559	768	985
■ Jul-18	510	737	816
■ Jul-19	603	527	441
■ Percent Change July 2018-July 2019	18%	-28%	-46%



# DYS First-Time Commitments Down 17%, Driven Primarily by Drop in Misdemeanor/Grid Level 1 Offenses

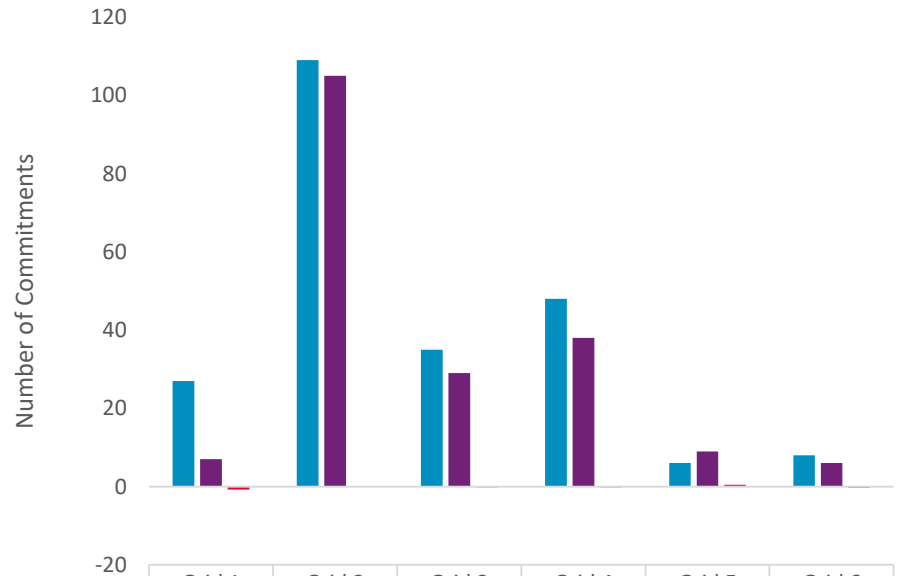
### Commitments by Penalty Level



	Felony	Misdemeanor	Total
FY 2018	121	111	233
FY 2019	111	82	194
% Change	-8%	-26%	-17%

■ FY 2018 ■ FY 2019 ■ % Change

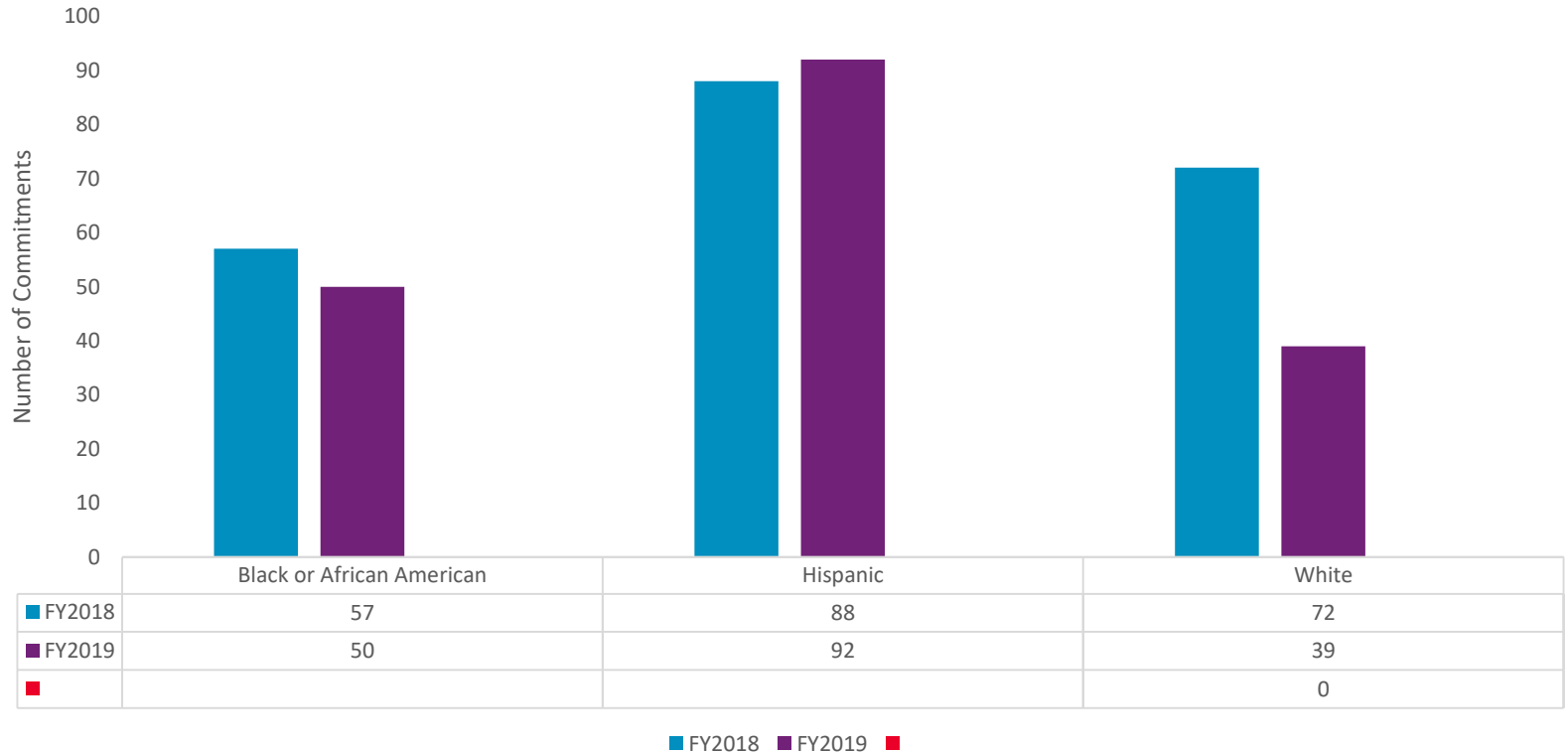
### Commitments by Grid Level (Higher Grid = More Serious Offense)



	Grid 1	Grid 2	Grid 3	Grid 4	Grid 5	Grid 6
FY 2018	27	109	35	48	6	8
FY 2019	7	105	29	38	9	6
% Change	-74%	-4%	-17%	-21%	50%	-25%

■ FY 2018 ■ FY 2019 ■ % Change

# DYS First-Time Commitments by Race/Ethnicity



# **WORKING GROUP REPORT-OUTS**

# Arrest Working Group: Purpose

- Discuss concerns raised by Massachusetts Chiefs of Police Association in June memo to JJPAD Board, including the impact of:
  - Raising the lower age of juvenile court jurisdiction to 12
  - Changes regarding “first offense” lower-level misdemeanors
  - Decriminalization of certain school-based offenses
  - Revisions to juvenile arrest procedures
- Develop consensus recommendations – or, failing that, document findings, potential options, and arguments for/against those options

# Arrest Working Group: Members

- JJPAD Members Participating:
  - Chief Kevin Kennedy (MCOPA)
  - Joshua Dohan (CPCS)
  - Cecely Reardon (DYS)
  - Sana Fadel (CfJJ)
  - Cristina Tedstone (DCF)
  - Melissa Threadgill (OCA)
  - Crissy Goldman (OCA)
- Additional Contributors:
  - Phillip Kassel (Mental Health Legal Advisors Committee)
  - Sheila Gallagher (Municipal Police Training Committee)
  - Cathy Coughlin (Bail Commissioner)

# Raising the Minimum Age of Criminal Responsibility to 12

**Issue:** What, if anything, should the state do if a child under 12 commits a serious crime?

## Group Findings:

- This is a very rare situation: only a few dozen children under 12 were arrested annually before the law change, and very few for serious charges
- There are numerous state/local entities that *may* intervene or already be involved in the youth's life depending on the circumstances
- However, there is no statute requiring a state entity to intervene and provide services (if necessary) that covers all circumstances, and also no legal authority for a state entity to compel a child/family to participate in an evaluation or treatment plan

# Raising the Minimum Age of Criminal Responsibility to 12

## Status of Recommendations:

### *All Members Agree:*

- Youth under 12 should not be held criminally responsible
- Needed services for this population of youth are under-resourced, particularly:
  - Accessible, timely behavioral health services
  - Case management and family engagement support
- Failure to meet the treatment needs of at-risk youth is both damaging to that youth and a potential future public safety risk

### *Points of Disagreement:*

- Whether or not there needs to be legal structure requiring a gov't entity to monitor these cases, provide services and compel evaluation and treatment as needed

# Raising the Minimum Age of Criminal Responsibility to 12

## Potential Options Discussed Thus Far

- Amending Chapter 119 (Protection and Care of Children) to give DCF responsibility and authority to monitor, with court oversight, treatment plan for youth under 12 who have committed a serious criminal act (e.g. serious bodily injury or sexual assault)
- Amending Children Requiring Assistance statute to allow law enforcement to file CRA petition for youth under 12 who have committed a serious criminal act (e.g. serious bodily injury or sexual assault)
- No statutory changes



# “First Offense” Misdemeanor Rule

**Issue:** Is a legislative change needed to add clarity to the recent law change regarding first-time, low-level misdemeanors?

## Group Findings:

- There were differing interpretations of this section of the law and its impact on law enforcement’s authority to make an arrest for low-level misdemeanors
- The August 2019 *Wallace v. Commonwealth* SJC decision clarified the law; the practical impact is that parties now agree that police officers have the authority to arrest for low-level misdemeanors
- *Wallace v. Commonwealth* created a complicated process for proving a “first offense” in court
- More time is needed to better understand what impact the case will have in practice

# “First Offense” Misdemeanor Rule

## Status of Recommendations:

### *All Members Agree:*

- For now, no additional statutory changes are needed
- The Board should continue to follow the issue, and reconvene the working group in the future if needed

# School-Based Offenses

**Issue:** Do School Resource Officers (SROs) currently have the legal authority to intervene to de-escalate a situation before it becomes violent in a school setting – even if a youth has not committed an arrestable offense? If not, should they?

## Group Findings:

- Case law says police, acting as “community caretakers”, have “...authority to take reasonable protective measures whenever public safety is threatened by acts that are dangerous, even if not expressly unlawful.”
- The group is not aware of any case law that specifies this applies to SROs operating in a school setting, however.

# School-Based Offenses

## Group Findings:

- The new statute says that MOUs between law enforcement and schools shall state that “SROs shall not use police powers to address traditional school discipline issues, including non-violent disruptive behavior.”
- The new statute also decriminalizes certain nonviolent conduct if it takes place at school, including “disturbing an assembly” and “disorderly conduct.”
- Some law enforcement have interpreted this to mean that SROs are not able to intervene unless/until a situation becomes violent, even if it appears that a student is on the verge of *becoming* violent
- Other working group members believe that SROs do have the authority to intervene in these situations under current law

# School-Based Offenses

## Status of Recommendations:

- There is no consensus on whether or not law enforcement have clear authority to intervene to de-escalate a situation before it becomes violent in a school setting if a youth has not committed an arrestable offense.
- There is also no consensus on whether or not there is a need for clarifying language.
- The group is working on developing draft clarifying language (although some members believe it is not needed or advisable)

# Juvenile Arrest Procedures - Bail

**Issue:** For youth who have been arrested and brought to the station, should the Officer-in-Charge have the authority to decide to release them or admit them to bail, or should all decisions on bail/release be made by a Bail Magistrate?

## Group Findings:

- An Officer-in-Charge is not, by nature, a neutral party in the way a Bail Magistrate would be
- The law change has caused some confusion in the field regarding whether or not a Bail Magistrate should (or can) be called at all
- If a Bail Magistrate is called, they can charge a \$40 fee for their services
- If a youth is released on personal recognizance and cannot afford the fee, they cannot be detained

# Juvenile Arrest Procedures - Bail

## Status of Recommendations:

### *All Members Agree:*

- The statute should be amended to give the bail magistrate the sole authority to determine bail/release for youth who have been arrested and brought to the station, rather than the Officer-in-Charge
- The Commonwealth should eliminate the \$40 bail magistrate fee for juveniles
  - The group recognizes that bail magistrates are performing a service, and that the state cannot require them to perform this service without compensation
  - How to operationalize this recommendation requires more discussion, likely with a larger/different group of stakeholders

# Juvenile Arrest Procedures - DCF

**Issue:** What should be done with youth who cannot go home following an arrest, but also cannot legally be held by DYS or the police?

## Group Findings:

- Situations regularly occur where a youth has been arrested and is cleared for release, but their parents/guardians will not or cannot pick them up or cannot be located.
- Law enforcement legally have up to six hours following an arrest to either transport a youth to juvenile court, release to a parent/guardian, or transfer the youth to the Overnight Arrest (ONA) program run by DYS
- DYS cannot legally hold a youth under 14 or a youth who has been released on their personal recognizance in a ONA program



# Juvenile Arrest Procedures - DCF

## Group Findings:

- Law enforcement could file a 51A if a parent will not/cannot accept the child back at their home
- Although DCF makes an effort to prioritize time-sensitive cases like these, they may not necessarily be able to respond within the 6-hour time window
- DCF funds after-hours emergency placement options, but those are currently only available for youth who have run away, not those who have been arrested for delinquency offenses and are eligible to be released but need a safe place to go

# Juvenile Arrest Procedures - DCF

## Status of Recommendations:

### *All Members Agree:*

- The legal requirements and response timeline policies governing the actions of all three entities – law enforcement, DYS and DCF – are in conflict, producing a gap where there is no clear place for the youth to go.

### *Potential Options Being Considered*

- Currently investigating whether DCF after hours emergency placements could be made available to this population of youth

# Arrest Working Group: Next Steps

- Group will meet again in early October
- Goal is to finalize report back to full committee in time for November meeting

# SRO Working Group: Purpose

- Assess implementation of school-based reforms, including:
  - Development of MOUs and SOPs for School Resource Officers in compliance with new law
  - New required training for SROs
  - Tracking of data on school-based arrests and referrals
- If necessary, develop recommendations for additional changes

# SRO Working Group: Members

- JJPAD Members Participating:
  - Chief Kevin Kennedy (MCOPA)
  - Marlies Spanjaard (CPCS)
  - Leon Smith (CfJJ)
  - Joshua Varon & Anne Gilligan (EOE/DESE)
  - Melissa Threadgill (OCA)
- Additional Contributors:
  - Matthew Cregor (Mental Health Legal Advisors Committee)
  - Angela Brooks (Attorney General's Office)
  - EOPSS will be sending rep to next meeting

# SRO Working Group: Progress Update

- MOU/SOP Progress:
  - Survey for Police Chiefs on MOU and SOP development out in the field (79 responses thus far)
  - Hoping to also survey school districts
  - Early results suggest less than 100% compliance w/ law
- Municipal Police Training Committee currently working on developing SRO curriculum
- No state agency has been tasked with supporting/overseeing implementation of school reforms
  - Working Group will develop list of new statutory mandates that lack an oversight component

# **SUBCOMMITTEE REPORT-OUTS**

# Community-Based Interventions (CBI): Mandate

- Study and report on key focus areas, including:
  - Quality and accessibility of **youth justice system diversion** programs
  - **Community-based services** provided to youth under supervision of juvenile court or DYS
  - Overlap between the **juvenile justice** system and the **mental health care** system
- Make **recommendations for juvenile justice system statutory changes**



# CBI: Process

- Review of national research on diversion
- Presentations on use of diversion in MA (Police, DA, Judicial)
- Survey of JJ Practitioners across state on their perceptions of availability and gaps in community-based interventions
- Youth & family surveys (in field)
- Review of statewide diversion infrastructure & eligibility models used in other states
- Review of current MA state budget funding for community-based interventions
- Review of diversion and service funding models in other states

# CBI: Findings

- 1. Diversion Works:** Diverting youth from formal processing by the juvenile justice system is an effective intervention strategy for many youth.
- 2. Increasing Use of Diversion in MA:** Juvenile justice decision-makers across the Commonwealth are increasingly aware of the importance of diversion, and more and more decision-makers are establishing diversion practice.

# CBI: Findings

- 3. Wide Variation Across State:** There is a wide variation in diversion practices across the state:
1. Eligibility criteria/standards
  2. Use of evidence-based practices
  3. Level of intensity of diversion conditions
- 4. No Data:** We do not currently collect the data that would be needed to understand or assess our current diversion system(s)

# CBI: Findings

- 5. Systemic Inequities:** The current structure of our diversion system likely contributes to systemic inequities
- Lack of consistency, standardization or universal adoption of evidence-based models → strong potential for inequitable treatment (demographic + geographic)
  - Despite data system limitations, we see significant racial/ethnicity disparities in system, particularly at early decision points

# CBI: Findings

**6. Gaps in Community-Based Interventions:** JJ practitioners believe there are distinct gaps in availability of community-based interventions for justice-involved youth:

- Services types
- Special populations
- County to county variation

# CBI: Findings

**7. More Infrastructure Needed:** More infrastructure support is needed to effectively connect at-risk youth w/ services that do exist earlier & overcome barriers:

- Case Management
- Service Tracking & Coordination
- Transportation
- Youth/Family Engagement

# Draft Recommendations: Overview

Statewide Diversion Coordination Program

Use of Data

Improving Availability and Accessibility of Community-Based Interventions

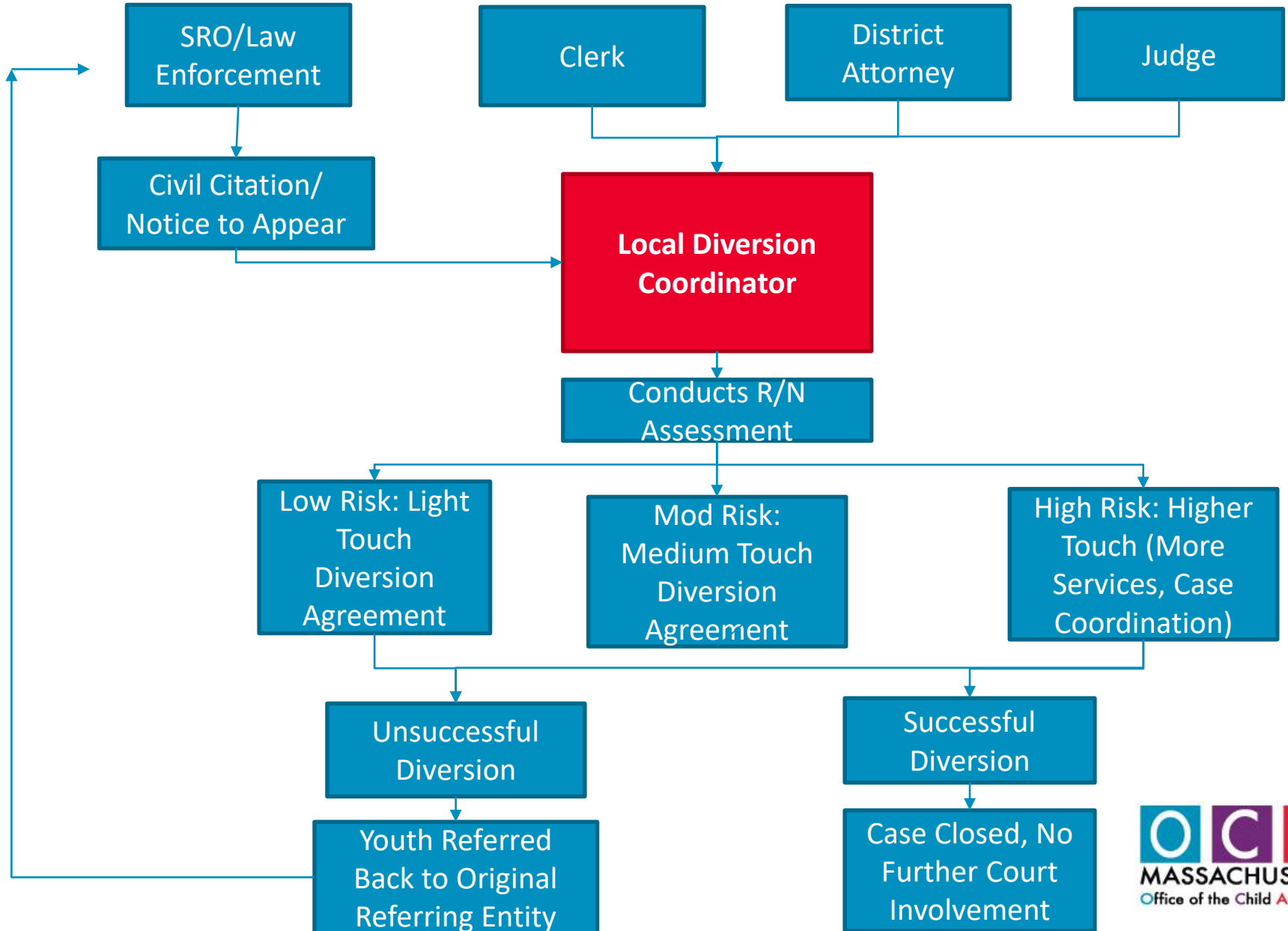
# Draft Recommendations

## Statewide Diversion Coordination Program

1. Improve communication and coordination of diversion work by creating **Diversion Coordinator** positions across the state
2. Improve quality and consistency of diversion work by developing **common infrastructure, policies and procedures** that Diversion Coordinators follow
3. Test and refine concept by starting with a **three-site pilot**



Decision-makers would have option to refer youth to local Diversion Coordinator rather than proceeding further in process



# Draft Recommendations

## Use of Data

4. The Diversion Coordinator should **track a variety of data** to support coordination, program management and evaluation, and the program should make regular public reports
5. Data from diversion program should **not be a part of a youth's official court record** or be used against youth in future case

# Draft Recommendations

## Improving Availability and Accessibility of Community-Based Interventions

6. Develop diversion grant program to **fill local gaps in services for moderate-to-high risk youth being diverted from system**
7. Prioritize **expanding evidence-based treatment services** for high-risk adolescents as part of ongoing Behavioral Health Initiative
8. Launch **working group focused specifically on transportation barriers** for youth/family seeking to obtain services

# Next Steps

- The CBI Subcommittee will present broad recommendations this fall to allow for consideration of recommendations as part of FY2021 Budget Process
- CBI Subcommittee will continue to refine ideas over the winter/spring, including:
  - Pressure testing ideas with JDAI County Committees
  - Holding focus groups with youth & families
  - Additional focus groups/conversations with other constituencies as needed
  - Inviting public feedback

# Next Meeting

November 21st

10am – 12pm

One Ashburton Place – 21<sup>st</sup> Floor  
Conference Room 3